

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.556 OF 2006**

Sanjay P. Mandlecha & Ors.

...Petitioners.

Versus

The District Collector,  
Nashik & Ors.

...Respondents.

Shri G.S.Godbole for the Petitioners.

Shri A.H.Palekar, A.G.P for Respondent Nos.1 & 4.

**CORAM : S.C.DHARMADHIKARI,J.**

**DATE : 3rd FEBRUARY, 2006.**

**P.C. :**

1. Heard Shri Godbole - learned Counsel appearing for the petitioners and Shri Palekar - learned A.G.P appearing for respondent Nos.1 & 4. Notice is not necessary to be issued to the Municipal Council and the Chief Officer.

2. Shri Godbole and Shri Palekar do not dispute that the revision application is pending before the Divisional Commissioner, Nashik challenging the order passed by the District Collector, Nashik, setting-aside a resolution passed by the Yeola Municipal Council in purported exercise of his powers under Section 308 of the Maharashtra Municipalities Act.

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3. The stay application has been rejected by the Divisional Commissioner and the grievance of Shri Godbole is that in pursuance of the orders passed by the Collector, the Chief Officer may proceed to demolish the structures in question.

4. In my view, considering such nature of the controversy and the consequences flowing from the order of the District Collector, the Divisional Commissioner should have directed that the order under challenge before him should not be implemented till he decides the revision application on merits and in accordance with law.

5. In my view, therefore, interest of justice would be served if the order dated 23rd January, 2006 (Exh.N, Page-64) is quashed and set aside and substituted by the following order and direction :

i. The Revision Application pending before the Divisional Commissioner shall be heard and decided as expeditiously as possible and in any event within a period of six weeks from the date of receipt of a copy of this order.

ii. The order passed by the first respondent District Collector dated 5th January, 2006 shall not be given effect and/or implemented till the

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final hearing and disposal of the Revision  
Application; and for a period of two weeks from  
the date of communication of the order of the  
Additional Commissioner, if adverse to the  
petitioners.

iii. All contentions on merits of both sides  
are expressly kept open.

( S.C.DHARMADHIKARI,J.)